

**FINAL REPORT**  
**SOCIAL SECURITY RETIREMENT PAY TASK FORCE**  
**March 24, 2014**

**Social Security Retirement Pay Task Force**

Public Act 97-621 added Section 611.1 to Illinois' Unemployment Insurance Act (the UI Act), 820 ILCS 405/611.1, creating the Social Security Retirement Pay Task Force. *See Attachment A, Section 611.1 of the UI Act.* The Task Force consists of 13 members: two appointed by each of the legislative leaders and Governor; the Director; and two appointees of the Director. *See Attachment B, Composition of the Social Security Retirement Pay Task Force.* Its purpose is to analyze the impact of Illinois' so-called "social security offset" on individuals receiving social security retirement benefits and make a recommendation to the General Assembly as to the advisability of amending the law with regard to the offset.

Section 611.1 requires that the analysis include the amount of benefits that would have been payable in prior years had the offset not been in effect; the potential impact on employers' state unemployment insurance liabilities had the offset not been in effect; the current and projected balances in Illinois' Unemployment Trust Fund account (UTF account); and the fact that the majority of states do not provide for a social security offset in their unemployment insurance laws. Section 611.1 requires that the Task Force hold at least three public hearings as part of its analysis.

**Illinois' Social Security Offset**

The social security offset reduces an individual's weekly unemployment benefits by an amount equal to 50 percent of his/her social security retirement benefits attributable to the week and is required pursuant to Section 611A(2) of the UI Act, 820 ILCS 405/611A(2). *See Attachment C, Section 611 of the UI Act.* Specifically, the offset is subtracted from the claimant's "weekly benefit amount" (WBA) – a statutorily set amount based on the claimant's prior earnings. If the difference is greater than zero, the claimant's unemployment benefits for the week will equal the difference, plus the full amount of any dependent allowance to which the claimant may be entitled.

While it reduces a claimant's weekly unemployment benefits, the offset does not reduce the "maximum benefit amount" (MBA), which is the most a claimant could receive over the one-year life of an unemployment-benefit claim – currently 26 times the claimant's WBA, not including any dependent allowances for which the claimant might qualify. For example, if the claimant's WBA was \$400, his/her MBA would be \$10,400. With a social security offset of \$150/week, the claimant could still earn the full MBA if he/she remained unemployed for just under 42 weeks. During 2012, however, claimants whose unemployment benefits were only partially reduced by the social security offset claimed benefits for just under 18 weeks on average.

The social security offset has been criticized by many social security recipients, who claim they had to continue to work to make ends meet and were unfairly shortchanged by the offset when

they lost their jobs. Employers are liable for unemployment taxes on wages paid to employees, irrespective of whether those employees would be subject to the social security offset if they applied for unemployment benefits.

A form of the offset first appeared in the UI Act as of July 1957. At that point, Section 611 provided weekly unemployment benefits were to be reduced by one-half of “old age insurance” under the Social Security Act. That provision was removed from the law as of July 1959.

Effective as of April 1, 1980, the Federal Unemployment Tax Act (FUTA) required, as a condition of the state’s employer community receiving the full credit against the federal unemployment tax, that the state’s unemployment insurance law reduce an individual’s weekly unemployment benefit by 100 percent of any governmental or other pension or retirement received by the individual. The United States Department of Labor (USDOL) interpreted the provision to apply to social security retirement pay, and the UI Act was amended accordingly. *See Attachment D, Unemployment Insurance Program Letter No. 22-87.*

Effective as of September 1980, FUTA was amended to no longer require that unemployment benefits be reduced by 100 percent of a claimant’s social security retirement pay. USDOL interpreted the change as not requiring unemployment benefits to be reduced at all because of social security retirement. *See Attachment D, Unemployment Insurance Program Letter No. 22-87.* The UI Act was subsequently interpreted and then expressly amended in 1989 pursuant to PA 86-3 to reduce unemployment benefits by 50 percent of the claimant’s social security retirement pay. The amendment was contained in an IDES clean-up bill.

Currently, Minnesota appears to be the only other state that provides for a social security offset in its unemployment insurance law, although not to the extent that Illinois does. *See Attachment E, Minnesota’s Social Security Offset Provision.*

The Department currently estimates that the offset reduces benefit outlays from the state’s Trust Fund account by \$25 million/year.

Prior estimates placed the savings for calendar years 2009 through 2012 higher. However, those estimates basically reflected the most extreme possible cases. The current estimate is based on an examination of the offset’s actual impact on individuals for calendar year 2012 and utilizes a longitudinal data base newly available to the Department of Employment Security. The new methodology is thought to offer more precision than the previous extreme case analyses, while guarding against understatement by basing the estimate on a year in which unemployment was still relatively high and rounding up to the next \$5-million interval.

Elimination of the offset could impact upon employers’ state unemployment taxes in three not entirely consistent ways. First, to the extent it increased the amount of unemployment benefits an individual received, it would increase the amount of benefit charges assessed against the individual’s former employer, potentially increasing the employer’s state unemployment tax rate. Second, to the extent it increased aggregate outlays from the UTF account, it could keep the “adjusted state experience factor” (ASEF) higher than it would otherwise have been. The ASEF is a multiplier used in calculating employers’ state unemployment-tax rates, currently ranging

between 80 percent and 155 percent; subject to year-to-year constraints, the multiplier tends to rise by one point for every \$50 million by which the UTF account falls below \$1 billion and drop by one point for every \$50 million by which the account exceeds \$1 billion. Finally, in limited instances, elimination of the offset could theoretically reduce the amount of benefits charged to an employer, where the offset did not prevent the claimant from ultimately receiving his/her MBA and the claimant was able to receive a dependent allowance for more than 26 weeks.

### **Illinois' Unemployment Trust Fund Account**

Illinois' UTF account is dedicated to paying unemployment benefits to Illinois claimants and, aside from occasional federal advances and bond issuances, is financed through employer taxes and other payments from employers. Including over \$1.5 billion in proceeds from a July 2012 bond issuance, the state's UTF account ended calendar year 2013 with a positive balance of just under \$1 billion (the majority of the bond proceeds having been used to repay federal advances made to the account when it was unable to meet its benefit payment obligations during the Great Recession). Including the bond proceeds, the account is expected to end calendar year 2014 with a positive balance of \$1.09 billion. Year-end balances are projected to increase through 2018, when they will peak at \$2.3 billion, and drop only slightly in 2019 – the extent of the forecast horizon. *See Attachment F, Illinois' Unemployment Trust Fund Account.*

### **Task Force Meetings**

The Task Force held four public meetings, prior to adopting this report. The first meeting occurred on May 7, 2013, and included 1) a background presentation on the “agreed bill process,” pursuant to which changes to the UI Act typically have not passed without agreement from the state's business and labor communities; 2) a background presentation on the unemployment insurance system (“UI 101”), including the relationship between unemployment benefits and taxes, the UTF account and the July 2012 bond issuance; 3) a presentation on USDOL's *Comparison of State Unemployment Laws*, regarding states that impose a social security offset; 4) a presentation on the potential benefit outlays that would have resulted had the offset not been in effect for calendar years 2011 and 2012 (using the extreme case analysis discussed above). *See Attachment G, Materials from the First Task Force Meeting.*

The second meeting occurred on June 20, 2013, and included 1) a presentation on the potential benefit outlays that would have resulted had the offset not been in effect for calendar years 2009 and 2010 (again, using the extreme case analysis discussed above); 2) a presentation on USDOL's *Comparison of State Unemployment Laws*, regarding how state unemployment insurance laws treat retirement pay in general; 3) a presentation on Virginia's cost estimates regarding legislation that eliminated the social security offset in that state; 4) a presentation on the Department of Employment Security's analysis of the states that USDOL's *Comparison of State Unemployment Laws* had identified as providing for a social security offset; 5) a review of legislation pending in the General Assembly to repeal the offset in Illinois; 6) oral testimony from two public witnesses and written testimony from two other public witnesses; 7) discussion among the Task Force members. *See Attachment H, Materials from the Second Task Force Meeting.*

The third meeting occurred on December 2, 2013, and included 1) oral testimony from six public witnesses; 2) Task Force discussion of four possible policy options: a) repeal the offset and enact a corresponding unemployment tax cut, b) repeal the offset once the UTF account's balance reaches an agreed upon threshold, c) repeal the offset without any corresponding changes regarding unemployment taxes and d) maintain the *status quo*. *See Attachment I, Materials from the Third Task Force Meeting.*

The fourth meeting occurred on February 11, 2014, and included 1) a presentation on the Department's revised methodology for estimating the benefit outlays that would result if the offset were repealed; 2) a high-level analysis of the UTF impact of repealing the offset and enacting a corresponding unemployment tax cut, using the revised methodology; 3) Task Force discussion; 4) oral testimony by one public witness. *See Attachment J, Materials from the Fourth Task Force Meeting.*

The fifth meeting occurred on March 24, 2014, when the Task Force adopted this report.

### **Task Force Recommendations**

None of the Task Force members has expressed support for the social security offset itself. The Department noted that expected UTF account savings from integrity efforts implemented under the SMART Act should more than compensate for the additional benefit outlays that would result from repealing the offset. These monies would also more than compensate for a corresponding UI tax offset to hold employers harmless. However, there is a difference of opinion as to whether elimination of the offset should require corresponding changes regarding unemployment taxes.

Employer groups favor eliminating the offset and enacting a corresponding \$25-million/year unemployment tax cut as Illinois employers would experience a UI tax increase as a result of these additional benefits being paid. They argue eliminating the offset would entail a change to the UI Act and be subject to the agreed bill process. The employers also note there is a current agreed bill in place; the agreement was reached in 2011 and is scheduled to be revisited in 2015. As discussed at the May 7, 2013, meeting, the agreed bill process generally requires that legislation changing the UI Act contain a combination of concessions and/or benefits for workers and compensating concessions and/or benefits for employers. The tax cut would be an acceptable tradeoff for eliminating the offset.

Labor argues that the offset is a relic of a one-time federal requirement and since the costs associated with federal requirements are typically not offset in the agreed bill process, the repeal of language which is no longer a federal requirement should not be offset. Labor claims that, in this case, there was never a compensating benefit for claimants in exchange for enactment of the current offset - and, therefore, a tradeoff for eliminating the offset should not be necessary.